

SENATE BILL 2833

By Herron

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 59 and Title 47, Chapter 18, relative to unfair trade practices in the sales of video programming.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 59, is amended by adding the following as a new part:

7-59-301. As used in this part unless the context otherwise requires:

(1) "Distributor" means and includes every person engaged in the business of making sales of video programming at retail within this state.

(2) "Person" has the same meaning as set forth in 7-59-201(5).

(3) "System" means a cable system, as that term is defined in 7-59-201(2), and also includes the network and other infrastructure required for the transmission or distribution of video programming to retail customers of the distributor. A "system" includes all areas, franchised or otherwise, that are served by a common cable head end facility or other similar equipment.

(4) "Video programming" has the same meaning as set forth in 7-59-201(6).

7-59-302.

(a) No less than quarterly, a distributor shall file a listing of the current prices for its video programming services for all of the franchised and unfranchised areas served by the system with the offices of each city mayor and each county mayor located within the geographic area served by the system.

The listing shall include all a la carte prices, plus the discounted pricing for

bundles of services offered with video programming services, that the distributor is offering to any current or potential subscriber within the geographic area served by the system, including geographic areas served by the system that are located outside of the specific franchise area or city or county limits where the report is filed.

(b) At least ten (10) days prior to the effective date of any discount, incentive or other promotion to be offered to any current or potential subscriber of video programming from a system, a distributor shall provide written notice to each franchising authority and to the offices of each city mayor and each county mayor located within the geographic area served by the system of such discount, incentive or other promotion.

7-59-303.

(a) It is unlawful for any distributor engaged in business in this state, either directly or indirectly, to discriminate in prices between purchasers of video programming of like grade and quality within the same system, where the purchases involved in such discrimination are in commerce, and where such video programming is sold for use within the state of Tennessee; provided, that nothing in this section shall prevent:

(1) Differentials which make only due allowances for differences in the cost of sale or delivery resulting from the methods in which such video programming is sold or delivered;

(2) A distributor from selecting its own customers in bona fide transactions and not in restraint of trade; or

(3) A distributor from lawfully lowering its price for video programming to any purchaser or purchasers when such lower price was

made in good faith to compete with the equally low or lower retail price of a competitor, provided that such distributor's lower price is openly advertised and made available to all current and potential customers within the same system and provided that the distributor complies with the requirements of Section 7-59-302 as to such offering. Nothing in this subdivision (3) shall require or permit the amendment or early termination of a term contract with one (1) or more customers, provided that the pricing for video programming was lawfully established at the time the contract was executed.

(b) It is unlawful for any distributor engaged in business in this state, either directly or indirectly, to discriminate in price between purchasers of video programming in violation of Section 543(d) of Title 47 of the United States Code. 7-59-304.

(a) A violation of this part constitutes an unfair or deceptive act or practice under section 47-18-104(a). A civil action for violation of this part may be brought under Title 47, Chapter 18, Part 1.

(b) This part is remedial legislation and shall be liberally construed to promote its purposes. The powers and remedies in this part shall be cumulative and supplementary to all other powers and remedies otherwise provided by law.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

